

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES

| | | |
|--------------------------------------|---|-----------------------|
| The Secretary, United States | : | |
| Department of Housing and Urban | : | |
| Development, on behalf of [REDACTED] | : | ALJ # |
| [REDACTED] and the [REDACTED] | : | FHEO No. 03-11-0272-8 |
| [REDACTED], | : | |
| | : | |
| Charging Party, | : | |
| | : | |
| v. | : | |
| | : | |
| Montgomery County Housing | : | |
| Authority | : | |
| | : | |
| Respondents | : | |
| | : | |

CHARGE OF DISCRIMINATION

I. JURISDICTION

On May 6, 2011, [REDACTED] and the [REDACTED] (collectively, "Complainants") filed a complaint with the U.S. Department of Housing and Urban Development ("HUD") alleging that the Montgomery County Housing Authority ("Respondent") discriminated against them based on Mr. Burgess's disability, in violation of the Fair Housing Act ("Act"), 42 U.S.C. §§ 3601-19.

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination on behalf of aggrieved persons following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. §§ 3610(g)(1) and (2). The Secretary has delegated that authority to the General Counsel (24 C.F.R. §§ 103.400 and 103.405(2012)), who has redelegated the authority to the Regional Counsel. 76 Fed. Reg. 42463, 42465 (July 18, 2011).

The Fair Housing and Equal Opportunity Director for Region III, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that a discriminatory housing practices has occurred in this case and has authorized and directed the issuance of this Charge of Discrimination. 42 U.S.C. § 3610(g)(2).

II. SUMMARY OF THE FINDINGS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned complaint and as set forth in its Determination of Reasonable Cause, Respondent is hereby charged with violating the Act as follows:

A. Legal Authority

1. It is unlawful to discriminate in the rental of a dwelling, or to otherwise make unavailable or deny a dwelling to any renter because of a disability.¹ 42 U.S.C. § 3604(f)(1); 24 C.F.R. § 100.202(a) (2012).
2. It is unlawful to discriminate against any person in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection with a dwelling. 42 U.S.C. § 3604(f)(2); 24 C.F.R. § 100.202(b) (2012).
3. Refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford an individual with a disability an equal opportunity to use and enjoy a dwelling, constitutes unlawful discrimination. 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204(a) (2012).
4. A person has a disability under the Fair Housing Act if he has a physical or mental impairment which substantially limits one or more major life activities. 42 U.S.C. § 3602(h); 24 C.F.R. §§ 100.20, 100.201 (2012).

B. Parties and Properties

1. [REDACTED], now deceased, was an individual with a disability, as defined under the Act. 42 U.S.C. § 3602(h). He resided at 300 Linden Avenue, North Hills, Pennsylvania, with his wife, Belinda Burgess, during the time period relevant to this Charge.
2. [REDACTED] was [REDACTED] caretaker during the time period relevant to this Charge, and is the Administratrix of the [REDACTED].
3. Complainants are aggrieved persons, as defined under the Act. 42 U.S.C. § 3602(i).

¹ The term "disability" is used herein in place of, and has the same meaning as, the term "handicap" in the Act and its implementing regulations.

4. Respondent Montgomery County Housing Authority ("Respondent") has its principal place of business at 104 West Main Street, Norristown, Pennsylvania.
5. Respondent administers Public Housing programs and the Housing Choice Voucher program in Montgomery County. Respondent owns and manages public housing developments called North Hills and Crest Manor. The North Hills development is located at 300 Linden Avenue, North Hills, Pennsylvania. Crest Manor's main address is 2231 Hamilton Avenue, Willow Grove, Pennsylvania.

C. Factual Allegations

1. On March 16, 2007, [REDACTED] and [REDACTED] moved into a two-bedroom apartment in Respondent's North Hills development with [REDACTED] two children.
2. [REDACTED] had lung cancer, which affected his breathing and walking. During parts of 2008, 2009, and 2010, the [REDACTED] went to Abington Memorial Hospital every two weeks for [REDACTED] cancer treatments.
3. Respondent's Crest Manor public housing development is closer to Abington Memorial Hospital than the North Hills development.
4. On March 16, 2008, [REDACTED] submitted to Respondent a request to transfer to a larger unit in Crest Manor. In the space on the request form designated for the reason for the request, [REDACTED] wrote: "The children are at an age for there [sic] own bedroom. More important [sic], I would be close to the hospital for my cancer and seizure treatments."
5. Upon receipt of the transfer request, Respondent placed the [REDACTED] on a transfer waitlist for a three-bedroom apartment at Crest Manor. At that time, Respondent did not initiate an interactive dialogue with the [REDACTED]. Respondent did not inform the [REDACTED] of other possible accommodations for [REDACTED] needs, such as the provision of a Housing Choice Voucher, which could have allowed the [REDACTED] to find private housing that they could afford closer to Abington Memorial Hospital.
6. [REDACTED] contacted Respondent in December 2008, March 2009, September 2009, and March 2010 to follow up on the transfer request. Each time, she was informed that there were no vacancies at Crest Manor.
7. On March 22, 2007, a four-bedroom unit in Crest Manor was vacated. The unit was offered to tenant YB, who did not have a disability-related need for

the unit. Tenant YB moved into the unit on October 1, 2009.

8. On March 31, 2008, a two-bedroom unit in Crest Manor was vacated. The unit was offered to tenant DP, who had put in a standard transfer request that was not based on a disability-related need. Tenant DP moved into the unit on April 11, 2008.
9. On January 31, 2010, a four-bedroom unit in Crest Manor was vacated. The unit was offered to tenant TD, who did not have a disability-related need for the unit. Tenant TD moved into the unit on March 10, 2010.
10. As the [REDACTED] did not own a car, and public transportation routes between the North Hills development and the hospital were inconvenient and indirect, the [REDACTED] had to find and pay for private transportation to and from the hospital. Living closer to the hospital during that time would have made the [REDACTED] regular trips to the hospital less costly, less time-consuming and less stressful.
11. As a result of Respondents' discriminatory conduct, [REDACTED] and [REDACTED] [REDACTED] suffered actual damages.

D. Fair Housing Act Violations

1. By failing to offer the [REDACTED] available units in Crest Manor and failing to otherwise accommodate [REDACTED]'s need to be closer to Abington Memorial Hospital for almost three years, Respondents denied [REDACTED] a reasonable accommodation, in violation of 42 U.S.C. §§ 3604(f)(1), 3604(f)(2), and 3604(f)(3)(B); 24 C.F.R. §§ 100.202(a), 100.202(b), and 100.204(a) (2012).

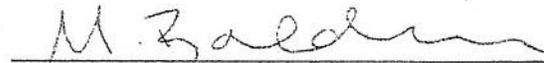
III. CONCLUSION

WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Office of Regional Counsel for the Philadelphia Regional Office, and pursuant to 42 U.S.C. § 3610(g)(2)(A), hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. §§ 3604(f)(1), 3604(f)(2), and 3604(f)(3)(B), and prays that an order be issued that:

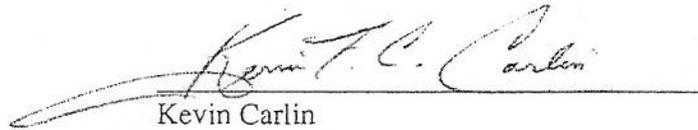
1. Declares that Respondents' discriminatory housing practices, as set forth above, violate Sections 3604(f)(1), 3604(f)(2), and 3604(f)(3)(B) of the Fair Housing Act, 42 U.S.C. §§ 3601-19;
2. Enjoins Respondents, and all other persons in active concert or participation with them, from discriminating on the basis of disability against any person in any aspect of the sale or rental of a dwelling;

3. Awards such damages as will fully compensate Complainants;
4. Assesses a civil penalty against each Respondent for each violation of the Act, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671 (2012);
5. Awards any additional relief as may be appropriate, pursuant to 42 U.S.C. § 3612(g)(3).

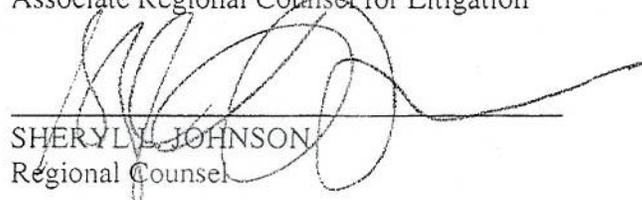
Respectfully submitted on this 20th day of December, 2012



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